

DEPARTMENT OF SOCIAL SERVICES
744 P Street
Sacramento, CA 95814



November 18, 1983

ALL-COUNTY INFORMATION NOTICE I-123-83

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Miller v. Deukmejian et al.
New Beginning Date of Aid Regulations
AFDC-FG/U, AFDC-FC, RCA and ECA Programs

This is to inform you of the latest developments in the case of Miller v. Deukmejian concerning the new beginning date of aid regulations.

A Preliminary Injunction was issued by the San Francisco Superior Court on November 8, 1983, see attached. The preliminary injunction continues the terms of the Temporary Restraining Order which prohibited the Department from implementing the new beginning date of aid regulations.

Under the terms of the preliminary injunction, the new beginning date of aid regulations are to be disregarded and the prior beginning date of aid regulations are to be followed. In All County Letter 83-114 you were instructed to disregard the new beginning date of aid regulations from the date of the temporary restraining order, October 19, 1983. The preliminary injunction's requirement extends back to October 1, 1983, the original effective date of the regulations. However, the Department has appealed the issuance of the preliminary injunction and will petition the Court of Appeal for a Writ of Supersedeas, which if granted will stay the enforcement of the preliminary injunction. You will be notified of the outcome and until then you do not need to recompute grants of aid for the period between October 1, and October 19, 1983. However, we suggest that you identify those cases approved prior to October 19th in which the new beginning date of aid regulations were used in the event recomputation of these cases is required.

If you have any questions, please contact Doris Keller, AFDC Management Consultant at (916) 324-2017.

Sincerely,

Kyle S. McKinsey
KYLE S. MCKINSEY
Deputy Director

Attachment

1 On October 19, 1983, this Court issued a Temporary Restraining
2 Order restraining defendants from implementing the proposed AFDC
3 "beginning date of aid" regulations. As a part of the order, this
4 Court ordered defendants to show cause why a preliminary injunction
5 should not be issued, pendente lite, as prayed for in the
6 complaint. The Temporary Restraining Order and the hearing on the
7 order to show cause were continued by this Court until 9:30 a.m.,
8 November 8, 1983, at which time the hearing was held.

9 This Court has considered the points and authorities on file
10 in this action, the declarations and exhibits, and the arguments of
11 counsel. This court finds that:

12 1) Plaintiffs' likelihood of success on the merits is great
13 because, at the hearing on the merits, this court is likely to hold
14 that:

15 a) a potential fiscal insufficiency is not sufficient
16 to justify the promulgation of regulations on an emergency
17 basis, and

18 b) in this case there is no actual emergency which
19 would justify promulgation of the proposed regulations on an
20 emergency basis;

21 2) Unless a preliminary injunction is issued, plaintiffs
22 will suffer irreparable injury in that their rights will be
23 rendered meaningless before this action proceeds to final judgment;

24 3) Granting the requested preliminary injunction will not
25 cause serious harm to defendants, whereas the refusal to grant the
26 injunction will likely result in irreparable harm to plaintiffs;

1 Based on the foregoing findings, IT IS HEREBY ORDERED that
2 defendants, their agents, officers, employees and representatives,
3 and all persons acting in concert or participating with them,
4 including employees of County Welfare Departments, are
5 preliminarily enjoined from adopting the proposed AFDC "beginning date
6 of aid" regulations (proposed MPP EAS §§40-129.432 and 44-317.1
7 and .2) on an emergency basis.

8 Defendants shall effectuate this order in the following way:

9 1) Defendants McMahon and Department of Social Services
10 shall immediately, to the extent they have not already done so,
11 notify all County Welfare Directors by means of a telegram, night
12 letter, telephone call, or other rapid means, that they are not to
13 use the proposed regulations until further notice;

14 2) Defendants McMahon and Department of Social Services
15 shall, by November 18, 1983, notify all County Welfare Directors by
16 means of a telegram, night letter, telephone call, or other rapid
17 means, that they are immediately to determine which AFDC
18 recipients, if any, have had their initial grant calculated
19 pursuant to the proposed regulations and recalculate their grants.
20 If any money is owing to these recipients, defendants are to issue
21 a warrant to them for the underpayments within two weeks, i.e., by
22 December 2, 1983.

23 3) Defendants McMahon and Department of Social Services
24 shall also transmit forthwith to each of their agents who is a
25 director of a department charged with the administration of
26 categorical aid programs in each county of the State of California,

1 a copy of this Order, and shall take all necessary steps to insure
2 that its provisions are complied with by each of those agents.

3 4) Defendants shall file a return with this Court on or
4 before December 16, 1983, setting forth with particularity what
5 they have done to comply with the Temporary Restraining Order and
6 Preliminary Injunction. Their return shall include, for each
7 county, what steps have been taken to provide payments to adversely
8 affected recipients, and by what dates such payments were made.

9 5) This preliminary injunction is granted without condition
10 that a bond be filed by plaintiffs in view of the Court's
11 determination that plaintiffs, by definition as AFDC recipients,
12 are poor and should not be required to provide security under this
13 Order.

14 SO ORDERED.

15 Dated: _____

JUDGE OF THE SUPERIOR COURT